

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
SOUTHERN DIVISION
No. 7:23-CV-1078-BO-RN

ESTATE OF JOSEPH WHITLOCK)
SMITH, BY ADMINISTRATRIX)
JOANNE S. SMITH,)
Plaintiff,)
v.)
UNITED STATES,)
Defendant.)

ORDER

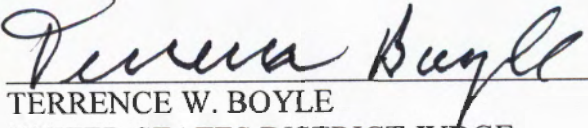
This cause comes before the Court on a motion to dismiss pursuant to Fed. R. Civ. P. 12(b)(1) filed by defendant. Defendant contends that North Carolina's statute of repose bars plaintiff's claim for medical malpractice filed under the Federal Tort Claims Act.

The parties agree that the primary issue addressed in their briefing is currently before the court of appeals in *Baldwin v. United States*, No. 23-1864 (4th Cir. Aug. 18, 2023), and that a stay of this Court's consideration of the issue is therefore appropriate.

Accordingly, defendant's motion to dismiss [DE 9] is DENIED WITHOUT PREJUDICE to refile following the filing of an opinion in *Baldwin*. Defendant may renew its motion to dismiss within fourteen days of the filing of the *Baldwin* opinion. Plaintiff may respond within fourteen days of the filing of the renewed motion and defendant may file any reply within seven days of the response.

Defendant's motion to seal medical records [DE 12] is GRANTED for the reasons stated therein. Defendant's unopposed motion to stay discovery [DE 14] is GRANTED.

SO ORDERED, this 22 day of March 2024.


TERRENCE W. BOYLE
UNITED STATES DISTRICT JUDGE